

By Whaley

H B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to soil and water conservation districts and the operation of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Section 201.001, Agriculture Code, is amended to read as follows:

(d) It is the policy of the legislature to provide for the conservation of soil and related ~~[soil]~~ resources of this state and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Texas Constitution. It is further declared as a matter of legislative intent and determination of policy that the State Soil and Water Conservation Board is the state agency responsible for implementing the constitutional provisions and state laws relating to the conservation and protection of soil resources ~~[agencies-created, powers-conferred,-and-activities-contemplated-in-this--chapter--for the--conservation-of-soil-and-water-resources-and-for-the-reduction of-public-damage-resulting-from-failure-to-serve--these--natural resources,-are--supplementary--and--complementary--to--the-work-of~~

1 various-river-and-other-authorities-in--this--state--and--to--other
2 state--officers,-agencies,-and-districts-engaged-in-closely-related
3 projects,-and-shall-not-duplicate-or-conflict-with-that-work].

4 SECTION 2. Subchapter A, Chapter 201, Agriculture Code, is
5 amended by amending Sections 201.002 and 201.003 and adding Section
6 201.005 to read as follows:

7 Sec. 201.002. DEFINITIONS. In this chapter:

8 (1) "Conservation district" means a soil and water
9 conservation district.

10 (2) "Director" means a member of the governing board
11 of a conservation district.

12 (3) "Family farm corporation" means a farm corporation
13 all shareholders of which are related to each other within the
14 second degree by consanguinity or affinity.

15 (4) "Federal agency" includes the Soil Conservation
16 Service of the United States Department of Agriculture and any
17 other agency or instrumentality of the federal government.

18 (5) [4] "Occupier" means a person who is in
19 possession of land lying within a conservation district, either as
20 lessee, tenant, or otherwise.

21 (6) [5] "State agency" includes a subdivision,
22 agency, or instrumentality of the state.

23 (7) [6] "State board" means the State Soil and Water
24 Conservation Board.

25 (8) [7] "State district" means a district
26 established under Section 201.012 of this code.

27 Sec. 201.003. ELIGIBLE VOTER. (a) A person is eligible to

1 vote in an election under this chapter if the person:

2 (1) is an individual who holds title to farmland or
3 ranchland lying within a conservation district, a conservation
4 district proposed by petition, or territory proposed by petition
5 for inclusion within a conservation district, as applicable;

6 (2) is 18 years of age or older; and

7 (3) is a resident of a county all or part of which is
8 included in the conservation district, the conservation district
9 proposed by petition, or the territory proposed for inclusion, as
10 applicable.

11 (b) If a family farm corporation owns farmland or ranchland
12 in a conservation district, in a proposed conservation district, or
13 in territory proposed for inclusion in a conservation district, the
14 corporation is entitled to one vote in each election under this
15 chapter that would affect the land owned by the corporation. The
16 corporation shall designate one corporate officer to vote for the
17 corporation in the election. The designated officer must be:

18 (1) 18 years of age or older; and

19 (2) a resident of a county all or part of which is
20 included in the conservation district, the proposed conservation
21 district, or the territory proposed for inclusion in a conservation
22 district.

23 Sec. 201.005. WATER CODE NOT APPLICABLE. Section 12.081,
24 Water Code, does not apply to a conservation district created under
25 this chapter.

26 SECTION 3. Subsections (c) and (d), Section 201.013,
27 Agriculture Code, are amended to read as follows:

1 (c) After receiving notice of the location of the convention
2 ~~[No--later--than--the--10th--day--after--the--date--that--notice--of--the~~
3 ~~location--of--the--convention--is--received]~~, the chairman of each board
4 of directors shall call a meeting for the purpose of electing a
5 delegate and an alternate to the state district convention. In
6 order to serve as a delegate or an alternate, a person must be an
7 eligible voter of the conservation district and actively engaged in
8 farming or ranching.

9 (d) The chairman of a board of directors shall certify the
10 name and address of the delegate and the alternate to the state
11 board not later than the 30th day before the date of the convention
12 ~~[10th-day-after-the-date-of-their-selection]~~.

13 SECTION 4. Subsection (a), Section 201.023, Agriculture
14 Code, is amended to read as follows:

15 (a) Except as provided by Section 201.081 of this code, the
16 ~~[The]~~ state board shall deposit all money and securities received
17 by it in the state treasury to the credit of a special fund known
18 as the state soil conservation fund. That fund shall be
19 appropriated to the state board for use in the administration of
20 this chapter and is subject to the same care and control while in
21 the state treasury as other funds of the state.

22 SECTION 5. Subchapter B, Chapter 201, Agriculture Code, is
23 amended by adding Section 201.026 to read as follows:

24 Sec. 201.026. NONPOINT SOURCE POLLUTION. The state board
25 shall plan, implement, and manage programs and practices for
26 abating agricultural and silvicultural nonpoint source pollution.

27 SECTION 6. Subchapter C, Chapter 201, Agriculture Code, is

1 amended by amending Section 201.051 and adding Section 201.0511 to
2 read as follows:

3 Sec. 201.051. DISSOLUTION OF CONSERVATION DISTRICT. (a) A
4 conservation district may be dissolved by majority vote of the
5 eligible voters in an election conducted in the manner provided by
6 this subchapter for its creation. The board of directors of the
7 conservation district shall notify the state board of the outcome
8 of an election under this section.

9 (b) On receiving notice of a vote to dissolve a conservation
10 district, the state board shall determine whether the conservation
11 district should continue to operate. If the state board determines
12 that continuing the operation of the conservation district is not
13 administratively practicable and feasible, the state board shall
14 deliver to the secretary of state certification of the district's
15 dissolution.

16 (c) Certification by the state board to the secretary of
17 state is sufficient notice of the dissolution of a conservation
18 district. The secretary of state shall issue to the directors of
19 the dissolved district a certificate of dissolution and shall
20 record the fact of dissolution in the appropriate records of the
21 secretary's office.

22 (d) On receiving a certificate of dissolution, the board of
23 directors of the dissolved district shall terminate the affairs of
24 the conservation district. The board shall transfer to the state
25 board all property owned by the conservation district. The state
26 board may:

27 (1) sell the property at a public auction and deposit

1 the net proceeds of the sale in the state treasury; or

2 (2) make the property available for use by other
3 conservation districts.

4 [~~(e)~~--Except-as-provided-by-Subsection-(d)-of--this--section,
5 after-dissolution-of-a-conservation-district-has-been-authorized-as
6 provided--in--Subsection--(a)-of-this-section,--the-directors-of-the
7 conservation-district-shall-sell--at--public--sale--all--machinery,
8 equipment,--and-supplies-of-the-conservation-district-purchased-with
9 state-funds.--The-directors-shall-deposit-the-proceeds-of-that-sale
10 and--any---other--state--funds--to--the--credit-of-the-conservation
11 district-in-the-state-treasury-to-the-credit-of-the-general-revenue
12 fund.]

13 (e) [~~(d)~~] If the dissolution of a conservation district is
14 for the purpose of adjusting the boundaries and the conservation
15 district is immediately reorganized, the funds and equipment of the
16 dissolved conservation district pass to the reorganized
17 conservation district. If more than one conservation district is
18 created under the reorganization, the funds and equipment of the
19 dissolved conservation district shall be divided under terms
20 satisfactory to the directors of the reorganized conservation
21 districts.

22 (f) The state board may not conduct an election under this
23 section for a conservation district before the end of the fifth
24 year after the date of the last election under this section for
25 that district.

26 Sec. 201.0511. EFFECT OF DISSOLUTION. (a) On issuance of a
27 certificate of dissolution under Section 201.051 of this code, the

1 ordinances and regulations adopted by the dissolved district cease
2 to be in effect.

3 (b) A contract to which a dissolved district was a party
4 remains in effect according to the terms of the contract. The
5 state board is substituted for the dissolved district for purposes
6 of performance of a contract. Under a contract of the dissolved
7 district, the state board has all the rights and liabilities under
8 the contract that the board of directors of the dissolved district
9 had under the contract, including the right to sue and the
10 liability to be sued.

11 (c) The dissolution of a conservation district does not
12 affect a lien on a judgment obtained or an action pending under
13 Section 201.128 of this code. The state board has all the rights
14 and obligations with respect to a lien or an action under Section
15 201.128 as the board of directors of the dissolved district had
16 under that section.

17 SECTION 7. Subsection (a), Section 201.073, Agriculture
18 Code, is amended to read as follows:

19 (a) Except as provided for the initial election of
20 directors, the persons who are eligible voters and own land in a
21 conservation district [~~subdivision~~] are entitled to elect the
22 directors for the district [~~one-director~~]. For that purpose, the
23 eligible voters shall meet on a date and at a time and place
24 designated by the existing board of directors. The directors shall
25 designate for the election a date that is after September 30 and
26 before October 16.

27 SECTION 8. Subsections (b), (c), and (d), Section 201.074,

1 Agriculture Code, are amended to read as follows:

2 (b) The [~~in each of the subdivisions designated for an~~
3 ~~election,~~] persons who are eligible voters and own land in a
4 conservation district [~~that subdivision~~] are entitled to elect the
5 directors for the district [~~one director~~]. The eligible voters
6 shall meet and elect the directors [~~director~~] in the manner
7 provided by Section 201.073 of this code, except that the state
8 board shall designate the date, time, and place for the election.

9 (c) [~~If there is no objection, the state board may designate~~
10 ~~places outside of a subdivision as the polling places for electing~~
11 ~~a director. If there is an objection, the board must receive the~~
12 ~~approval of a majority of the persons qualified to vote for~~
13 ~~director before it may make that designation.~~

14 [~~d~~] The Election Code does not apply to elections under
15 this section.

16 SECTION 9. Subsections (b) and (c), Section 201.080,
17 Agriculture Code, are amended to read as follows:

18 (b) The directors shall furnish to the state board on
19 request copies of ordinances, rules, regulations, orders,
20 contracts, forms, other documents that the directors adopt or
21 employ, and other information concerning the directors' activities
22 that the state board requires in the performance of its duties
23 under this chapter. The state board may demand at any time and pay
24 the costs of an audit of a conservation district's accounts.

25 (c) The directors shall deposit all [~~soil conservation~~]
26 funds [~~appropriated to the conservation district under Chapter 332,~~
27 ~~Acts of the 53rd Legislature, Regular Session, 1953,~~] with state or

1 national banks or in savings and loan associations. The directors
2 shall either deposit the funds in demand or time accounts,
3 including interest-bearing accounts, or purchase certificates of
4 deposit. The funds may be withdrawn only on approval of the
5 directors and only by check or order signed by the chairman and the
6 secretary.

7 SECTION 10. This Act takes effect September 1, 1985.

8 SECTION 11. The importance of this legislation and the
9 crowded condition of the calendars in both houses create an
10 emergency and an imperative public necessity that the
11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended.

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JAN 28 1985

JAN 31 1985

- 1. Filed with the Chief Clerk.
- 2. Read first time and Referred to Committee on Government Organization
- 3. Reported favorably (as amended) (as substituted) and sent to Printer at _____
- 4. Printed and distributed at _____
- 5. Sent to Committee on Calendars at _____
- 6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).
- 7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).
- 8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

- 9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).
- 10. Caption ordered amended to conform to body of bill.
- 11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).
- 12. Ordered Engrossed at _____
- 13. Engrossed.
- 14. Returned to Chief Clerk at _____
- 15. Sent to Senate.
- _____ Chief Clerk of the House
- 16. Received from the House
- 17. Read, referred to Committee on _____
- 18. Reported favorably
- 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
- 20. Ordered not printed.
- 21. Regular order of business suspended by (a viva voce vote.) (_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments,
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____